IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 10593 of 2005

Between:

M/s.Anu Taxi Service, Sector .II, Opp.Shopping Complex,

Ukkunagaram, Visakhapatnam, rep.by its Managing partner
K.Ramana Naidu, S/o.Bangar Rao,

..... PETITIONER

AND

The Asst. Provident Fund Commissioner (Compl)

Employees provident Fund organisation, Sub-Regional
office, NAD post, Visakhapatnam.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order, direction or writ more particularly one in the nature of writ of certiorari calling the records pertaining to the order vide proceedings No.AP/VP/Compl/AP/30373/2005/382, dated 25-04-2005 passed by the respondent under Sec.7-B of the employees provident fund & Miscellaneous provisions Act, 1952 and quash the same and pass such other and further orders which this Hon'ble court deems fit and proper in the circumstances of the case and in the interest of justice.

Counsel for the Petitioner :Mr.K.LAKSHMAN

Counsel for the Respondent : Mr.B.NARASIMHA SARMA

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.10593 OF 2005

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ORDER :

Heard the learned Counsel for the petitioner and the learned Standing Counsel appearing for the respondent.

As can be seen from the material on record, the respondent by order dated 7-4-2005 passed an order under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short, 'the Act') determining that a sum of Rs.6,85,495/- is due from the petitioner towards the P.F. Contributions for the period from 8/1999 to 2/2005. Thereafter, the petitioner made an application under Section 7-B of the Act seeking review of the order, dated 7-4-2005. The said application made under Section 7-B of the Act was rejected by order dated 25-4-2005 holding that no sufficient ground is made out nor there is any mention in the review application about the discovery of new and important matter or evidence which after the exercise of due diligence could not be produced during the course of the proceedings under Section 7-A of the Act. Aggrieved by the said order, dated 25-4-2005 this writ petition is filed.

A copy of the review application placed before this Court shows that the review was sought only on the ground that the order under Section 7-A of the Act was passed *ex parte* and therefore it requires to be set aside and that they may be given an opportunity to produce the relevant records since the contributions were already paid by them.

The respondent, having considered the case of the petitioner, rejected the review application holding that the ingredients of Section 7-B of the Act are not made out. I do not find any reason to hold that the said order is either arbitrary or illegal. As rightly held by the respondent, the review under Section 7-B of the Act is

permissible only where new and important matter or evidence was discovered which was not within the knowledge of the applicant or could not be produced at the time when the order was made under Section 7-A of the Act or on account of some mistake or error apparent on the face of the record or for any other sufficient reason. If the grievance of the petitioner is that the order made under Section 7-A of the Act was an *ex parte* order, may be the remedy lies elsewhere, but the petitioner cannot invoke the power of review under Section 7-B of the Act.

The impugned order does not suffer from any infirmity warranting interference by this Court under Article 226 of the Constitution of India.

Accordingly, the Writ Petition is dismissed. No costs.

However, this shall not preclude the petitioner to work out the appropriate remedy as available under law.

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29th April, 2005.

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To

1. The Asst. Provident Fund Commissioner (Compl)

Employees provident Fund organisation, Sub-Regional office, NAD post, Visakhapatnam.

2. Two CD copies